

BOARD OF BARBERING AND COSMETOLOGY

INITIAL STATEMENT OF REASONS

Hearing Date: July 30, 2007

Subject Matter of Proposed Regulations: Schedule of Administrative Fines

Sections Affected: CCR 974(a)

Specific Purpose

The Board is adding a fine amount to violations of the newly adopted procedures for cleaning and disinfecting pedicure equipment to the Schedule of Administrative Fines. The new sections are 980.2 Pipe-less Footspas and 980.3 Non-Whirlpool Foot Basins or Tubs. Additionally, the Board is amending the fine amount for violation of section 982 from \$100 to \$500 as recommended by the Board's Administrative Fine Task Force.

This proposal allows Board inspectors to apply fines for violations associated with the recently approved "Cleaning and Disinfecting Pedicure Footspa Equipment", as well as applying appropriate fine amounts for violation of section 982 approved by the Board and as recommended by the Board's Administrative Fine Task Force.

These amendments would help serve as a better fine system to support the enforcement of Board health and safety laws and to gain compliance from repeat violation offenders, licensed establishments, and individual licensees. Thereby providing protection to consumers from infections.

Factual Basis/Rationale

In accordance with the Board of Barbering and Cosmetology's 2004/05 strategic plan goals, a task force was convened in 2006 to review problems with the existing Schedule of Administrative Fine system. In April 2006, the task force's findings and recommendations were presented to the Board for action; the Board approved the recommendations of the task force and ordered Board staff to begin the regulatory process for amending the CCR section 974 Schedule of Administrative Fines.

The Board submitted regulatory action on December 28, 2006 to the Office of Administrative Law (OAL) amending the CCR section 974 Schedule of Administrative Fines. In December 2006, the Board also submitted an emergency regulation to OAL adopting new procedures for cleaning and disinfecting pedicure equipment which included amending CCR section 980.1 and adopting new sections 980.2 Pipe-less

Footspas and 980.3 Non-Whirlpool Foot Basins or Tubs. The Office of Administrative Law (OAL) approved both regulatory actions and have since been adopted and codified.

However, the Schedule of Administrative Fine regulations (Section 974) were submitted prior to the initiation of the procedures for cleaning and disinfecting pedicure equipment regulations; therefore, the approved Schedule of Administrative Fines regulatory package only reflected the existing section (980.1) of the cleaning and disinfecting pedicure equipment regulations. Additionally, Board staff inadvertently left out language increasing the fine amount for violation of section 982 from \$100 to \$500 as a result of the recommendations by the Board's Administrative Fine Task Force in the initial regulatory amendment of section 974.

Underlying Data

- 1: The April 24, 2006 Board meeting minutes.
- 2: The task force March 20, 2006 meeting minutes.
- 3: The April 22, 2007 Board meeting minutes.

Business Impact

The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

The Board did consider various alternatives to the proposed action, including but not limited to, making no changes or minimizing the citation and fine program altogether. The Board believes that the recommended changes ensure the best chance of protecting for consumers from serious health and safety incidents.